

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Investigation on the Commission's own motion into the fitness of the officers, directors, owners and affiliates of Clear World Communications Corporation, U-6039, including individual officers, directors and shareholders James, Michael, and Joseph Mancuso, and into the conduct of other utilities, entities, or individuals (including Christopher Mancuso) who or that may have facilitated the Mancusos' apparent unlicensed sale of telecommunications services.

Investigation 04-06-008
(Filed June 9, 2004)

**ADMINISTRATIVE LAW JUDGE'S RULING MEMORIALIZING
RULINGS ON MOTIONS MADE BY THE PARTIES**

This ruling memorializes rulings made from the bench at the second Prehearing Conference on October 8, 2004, on motions made by the Consumer Protection and Safety Division (CPSD) and by Clear World Communications Corporation (Clear World).

1. Clear World's Motion to Compel

Denied. The volume of data and admission requests is unreasonable. Clear World is ordered to reduce its 1,204 interrogatory-type data and admissions requests to CPSD to approximately 10% or 15% of that total and to submit any further interrogatory-type data or admissions requests by way of motion. CPSD is to respond to the motion within two business days of receipt stating its objections to the motion, if any.

The deposition subpoena of CPSD's lawyer is quashed. Deposition of counsel has not been justified. Clear World's deposition subpoenas for 29 CPSD persons most knowledgeable about the statute of limitations and the 10 deposition subpoenas for CPSD persons most knowledgeable about alter-ego issues are quashed. These are issues of legal interpretation that counsel can research on their own.

The motion to order the depositions of CPSD witnesses Linda Woods and Kevin Nakamura is granted. Counsel are directed to arrange a time and date for those depositions after October 13, the date for CPSD's reply testimony. The motion to order the depositions or interviews of CPSD witnesses who are former employees of Clear World is granted. CPSD is to identify the former employee witnesses it plans to call at hearing and to make them available for deposition or interview after October 13.

CPSD's motion for a protective order is granted and denied to the extent set forth above.

2. Ruling on Statute of Limitations

While the statute of limitations may apply to the period of time in which fines may be assessed, no statute of limitations applies to information about a regulated utility that the Commission or Commission staff seeks during an investigation. Evidence of misconduct by a public utility will not be time-barred at hearing solely because of the date on which it is alleged to have occurred. (*See e.g.*, Pub. Util. Code §§ 313, 314, 581-587.)

3. CPSD Motion for Extension of Time

CPSD's motion to extend the time for submission of its reply testimony from October 13 to October 20, 2004, is denied. CPSD has had sufficient time to prepare reply testimony. Both CPSD and Clear World may if necessary file motions to supplement their written testimony.

4. Clear World's Motion to Postpone Hearing

Clear World's motion to postpone the dates of hearing from November 9-19, 2004, to April 2005 is denied. This case has been pending since the Commission ordered an investigation on February 27, 2003. Clear World has been ably represented by former counsel and current counsel during this time and has had ample opportunity to prepare for hearing.

5. CPSD Motion to Strike Prepared Testimony

CPSD's motion to strike the prepared testimony of Clear World witness Art Jemio is denied. While this testimony was not the kind of expert testimony that Clear World had indicated it would submit, there were no restrictions on the type of expert testimony that Clear World could present.

6. CPSD Motion to Compel Depositions

CPSD's motion to compel the depositions of Messrs. Solares and Brewton is granted. The parties are to arrange a mutually convenient date for the taking of these depositions.

7. Clear World's Subpoena Requests

Clear World's request on October 7, 2004, for 15 subpoenas in addition to the 10 it had earlier been issued is taken under advisement. Clear World is to submit its subpoena request in a written motion explaining what additional

discovery is required and why that discovery can't be dealt with in some other manner. CPSD is to respond to that motion within five business days.

To the extent CPSD intends to call out-of-state witnesses, CPSD is directed to make those witnesses available to Clear World for deposition prior to the time that they will testify. To the extent CPSD intends to call subscriber witnesses at hearing, CPSD is directed to make those witnesses available to Clear World for interview or deposition prior to the time that they will testify.

IT IS RULED that the motions of the Consumer Protection and Safety Division and the motions of Clear World Communications Corporation are granted and denied to the extent set forth in this ruling.

Dated October 14, 2004, at San Francisco, California.

/s/ Glen Walker

Glen Walker
Administrative Law Judge

CERTIFICATE OF SERVICE

I certify that I have by mail, and by electronic mail to the parties to which an electronic mail address has been provided, this day served a true copy of the original attached Administrative Law Judge's Ruling Memorializing Rulings on Motions Made by the Parties on all parties of record in this proceeding or their attorneys of record.

Dated October 14, 2004, at San Francisco, California.

/s/ JANET V. ALVIAR

Janet V. Alviar

N O T I C E

Parties should notify the Process Office, Public Utilities Commission, 505 Van Ness Avenue, Room 2000, San Francisco, CA 94102, of any change of address to ensure that they continue to receive documents. You must indicate the proceeding number on the service list on which your name appears.